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Letter dated 10 April 1996 from the Permanent Representative of Germany to the United Nations addressed to the Secretary-General

On instructions from my Government, I have the honour to draw your attention to a view concerning the issue of State succession in former Yugoslavia expressed in the United Nations document entitled "Summary of Practice of the Secretary-General as depositary of multilateral treaties" (ST/LEG/8), as prepared by the Treaty Section of the Office of Legal Affairs. I refer in particular to paragraphs 297 and 298 of the said document.

The Federal Republic of Germany would like to express its disagreement with any interpretation that "the Federal Republic of Yugoslavia (Serbia and Montenegro) ... remains ... the predecessor State upon separation of parts of the territory of the former Yugoslavia". Such an interpretation is contrary, in particular, to Security Council resolution 777 (1992), in which the Council stated that "the State formerly known as the Socialist Federal Republic of Yugoslavia has ceased to exist" and that "the Federal Republic of Yugoslavia (Serbia and Montenegro) cannot continue automatically the membership of the former Socialist Federal Republic of Yugoslavia in the United Nations". The General Assembly in its resolution 47/1 supported the decision of the Security Council.

Recently, in Security Council resolution 1022 (1995) of 22 November 1995, the Council confirmed with regard to the State formerly known as the Socialist Federal Republic of Yugoslavia "... that that State has ceased to exist ...".

Moreover, the interpretation in question is contrary to the opinions of the Arbitration Commission of the Conference for Peace in Yugoslavia. The Arbitration Commission concluded that the former Socialist Federal Republic of Yugoslavia had dissolved and ceased to exist as a subject of international law, and that none of the successor States, including the Federal Republic of

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Yugoslavia (Serbia and Montenegro), could claim to be the sole successor State of the former Socialist Federal Republic of Yugoslavia. The fundamental principles of equality of rights and duties in respect of international law which deal with succession of States with respect to treaties, State property, archives and debts were to be applied to all successor States (opinions No. 8, 9 and 10) (see A/48/874-S/1994/189).

As the interpretation contained in the said document has given rise to serious concerns also for my Government, I would welcome if the legal situation laid out in the resolutions cited above could be reflected in the corrigendum reportedly under consideration in the United Nations Secretariat.

I should be grateful for your kind assistance in circulating the present letter as a document of the General Assembly, under agenda item 19, and as a document of the Security Council.

(Signed) Tono EITEL